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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 GREGORY L. HAMERTER,

No. C 07-03409 CRB

12 Plaintiff,

ORDER

13 v.

14 STATE OF CALIFORNIA,

15 Defendant.
16 _____/

17 Now before the Court is plaintiff's application to proceed *in forma pauperis* ("IFP").
18 A court may authorize a plaintiff to prosecute an action in federal court without prepayment
19 of fees or security if the plaintiff submits an affidavit showing that he or she is unable to pay
20 such fees or give security therefor. See 28 U.S.C. § 1915(a). Plaintiff has submitted the
21 required documentation, and it is evident from his application that his assets and income are
22 insufficient to enable plaintiff to prosecute the action.

23 Viewing plaintiff's application in isolation, it appears that he should be allowed to
24 proceed IFP. A court is under a continuing duty, however, to dismiss a case whenever it
25 determines that the action "(i) is frivolous or malicious; (ii) fails to state a claim on which
26 relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from
27 such relief." 28 U.S.C. § 1915(e)(2)(B)(i)-- (iii).
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1 Plaintiff's complaint names as the only defendant the "State of California." Of the ten
2 counts in his complaint, however, only three refer at all to the State of California. Count 5
3 alleges that the State of California is liable for "historical prejudice" against African
4 Americans who graduate with an advanced degree from a California State University. On
5 this claim plaintiff seeks restitution for college tuition, fees and monies plaintiff would have
6 earned had he "been treated fairly and given the opportunity for gainfully employment."

7 In Count 9 plaintiff recites 246 years of prejudice against African Americans and
8 asserts that the "State of California is liable for finding employment for the plaintiff."

9 Count 10 alleges that all states in the United States have discriminated against African
10 Americans.

11 Plaintiff's complaint does not state a claim against the State of California. First, the
12 claims for monetary damages are barred by the doctrine of sovereign immunity. Hyland v.
13 Wonder, 117 F.3d 405, 413 (9th Cir. 1997). Second, the Court is not aware of any law that
14 would otherwise permit the claims made by plaintiff against the State of California.
15 Accordingly, the complaint is DISMISSED.

16 **IT IS SO ORDERED.**

17 Dated: Aug. 3, 2007



18 CHARLES R. BREYER
19 UNITED STATES DISTRICT JUDGE
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